

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Sutinder Singh Khehar</b>
<b>Heard on:</b>	<b>Friday, 17 February 2023</b>
<b>Location:</b>	<b>Held remotely via Microsoft Teams</b>
<b>Committee:</b>	<b>Mrs Helen Carter-Shaw (Chair) Ms Wanda Rossiter (Accountant) Mr Nigel Pilkington (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Richard Ferry-Swainson (Legal Adviser)</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case Presenter) Ms Nyero Abboh (Hearings Officer)</b>
<b>Summary:</b>	<b>Allegations (except for those in the alternative) and misconduct found proved. Member excluded from Register and costs ordered</b>
<b>Costs:</b>	<b>£6800</b>

#### INTRODUCTION/SERVICE OF PAPERS

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1. The Disciplinary Committee (“the Committee”) convened to consider a number of Allegations against Mr Khehar. Mr Khehar did not participate in the hearing, nor was he represented.
2. The papers before the Committee were in a bundle numbered 1 to 107. There was also a service bundle numbered 1 to 18, a pseudonymisation schedule and a costs schedule.

### **PROCEEDING IN ABSENCE**

3. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (“the Regulations”). The Committee took into account the submissions made by Ms Terry on behalf of ACCA and also took into account the advice of the Legal Adviser.
4. Included within the service bundle was the Notice of Hearing (Notice) dated 20 January 2023, thereby satisfying the 28-day notice requirement, which had been sent to Mr Khehar’s email address as it appears in the ACCA register. The Notice included details about the time, date and remote venue for the hearing and also Mr Khehar’s right to attend the hearing, by telephone or video link, and to be represented, if he so wished. In addition, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in Mr Khehar’s absence, if considered appropriate. There was a receipt confirming the email had been sent to Mr Khehar’s registered email address.
5. The Committee was satisfied that the Notice had been served in accordance with the Regulations, which require ACCA to prove that the documents were sent, not that they were received. Having so determined, the Committee then considered whether to proceed in Mr Khehar’s absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Khehar, it should exercise that discretion with the utmost care and caution.
6. The Committee noted that in an email dated 9 May 2021, Mr Khehar informed ACCA that he would “*not be attending the hearing.*” He said he was in the process of retiring and did not wish to renew his practising certificate. He said he wished to apologise for his “*failure*”.

7. On 23 March 2022, Mr Khehar indicated in a Disciplinary Committee Case Management Form that he would not be attending the hearing, nor would he be represented. He also indicated that he consented to the case proceeding in his absence.
8. In an email dated 12 January 2023, Mr Khehar again confirmed that he did not wish to attend the hearing.
9. In response to the Notice, sent on 20 January 2023, Mr Khehar said in an email of the same date, "*I will NOT be attending.*" In a further email of the same date, he confirmed that he was content for the hearing to proceed in his absence.
10. The Committee noted that Mr Khehar faced serious allegations, including allegations of dishonesty, and that there was a clear public interest in the matter being dealt with expeditiously. The Committee considered an adjournment would serve no useful purpose because it seemed unlikely that Mr Khehar would attend on any other occasion and he had not applied for one. As referred to above, Mr Khehar had confirmed in the Case Management Form that he would not be attending the hearing and he consented to the matter being considered in his absence. That intention had been reaffirmed as recently as 20 January 2023. He had, nevertheless, been sent the link to today's hearing on 14 February 2023 in case he changed his mind. He did not attend, nor communicate any further with ACCA. The Committee thus concluded that Mr Khehar had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing.
11. In all the circumstances, the Committee decided that it was in the interests of justice and in the public interest that the matter should proceed, notwithstanding the absence of Mr Khehar. No adverse inference would be drawn from his non-attendance.

#### **APPLICATION TO AMEND**

12. At the outset of the hearing, Ms Terry made an application to make a minor amendment to Allegation 2(a) to change the word '*during*' to '*in advance of*'. This was because the failure to disclose took place on 8 January 2021 (as alleged), whilst the actual monitoring visit took place on 2 February 2021. She submitted that although Mr Khehar was unaware this application was being

made, no unfair prejudice would be caused to him since the requested amendment did not change the nature or seriousness of the matter alleged.

13. The Committee considered the application with care and accepted the advice of the Legal Adviser. The Committee took into account the fact that Mr Khehar was not present and so unaware of this application. However, the essence of what was alleged was that Mr Khehar had failed to disclose Client A as an audit client during the process of a monitoring visit, which started with the Compliance Officer sending a request to Mr Khehar in advance of his visit, requesting a list of his audit clients. The important parts of the allegation were the date Mr Khehar failed to disclose and the fact that he failed to disclose Client A. The requested amendment did not change those factors and would not, in the Committee's view, create any unfairness to Mr Khehar. The Committee therefore allowed the application to amend.
14. The Committee also decided to make a minor amendment of its own, simply to change the numbering slightly so that the allegations of misconduct and being liable to disciplinary action, which relate to both Allegations 1 and 2, become Allegation 3. This was to tidy up the numbering and did not in any way change the matters alleged or cause either party any prejudice. Ms Terry was content with this proposal.

## **ADMISSIONS**

15. Ms Terry referred the Committee to the completed Case Management Form, signed and dated by Mr Khehar on 23 March 2022, in which he indicated that he admitted all the facts. She invited the Committee to accept those admissions to clear factual allegations, but to approach with caution allegations that required a judgement decision by the Committee such as allegations of dishonesty and a lack of integrity. The Legal Adviser echoed this approach and referred the Committee to Complaints and Discipline Regulations 12(3)(b) and (c), which state:

*(b) If the relevant person is not in attendance, the Disciplinary Committee shall consider any written response to the notice referred to in Regulation 10(1) or any correspondence or note of conversation and*

*determine whether it establishes the relevant person's wish to make any admissions.*

- (c) *Where the facts of any allegation (or any part of an allegation) have been admitted by the member, the Chairman shall announce that such facts have been found proved.*

16. In accordance with that advice and the clear, unequivocal admissions given by Mr Khehar in the Case Management Form, the Committee found proved Allegations 1(a), 1(b), 1(c)(iii), 2(a) and 2(b)(iii). The Committee would consider the other allegations once it had heard and considered all the evidence presented.

## **ALLEGATIONS/BRIEF BACKGROUND**

17. It is alleged that Mr Khehar is liable to disciplinary action on the basis of the following Allegations (as amended):

### **Allegation 1**

- (a) On one or more of the dates set out in Schedule A, Mr Khehar signed an audit report relating to the accounts of Client A certifying that he had undertaken the audit work identified in the report in accordance with the International Standards on Auditing (UK and Ireland), when he had not undertaken that work sufficiently or at all.
- (b) Mr Khehar failed to retain the audit files for Company A for the years set out in Schedule A for five years after the date the audit report was signed as required by International Standard on Auditing 230 (then in force).
- (c) Mr Khehar's conduct at Allegation 1(a) was:
- i. Dishonest, in that he knew what he was certifying at 1(a) above in relation to one or more of the audit reports set out at Schedule A was false, or in the alternative;
  - ii. Failed to demonstrate integrity; and

- iii. Contrary to Global Practising Regulations 13(1) of Annex 1 Appendix 1 (2017 to 2019) in relation to 1(a) and/or 1 (b); and
- iv. Contrary to the Fundamental Principle of Professional Competence and Due Care (2017 to 2019) in relation to 1(a) and/or 1(b).

### **Allegation 2**

- (a) On 8 January 2021 Mr Khehar failed to disclose Client A to the ACCA on his list of audit clients provided to the Compliance Officer in advance of a monitoring visit.
- (b) Mr Khehar's conduct was:
  - i. Dishonest, in that Mr Khehar knew that Client A was an audit client and his statement to ACCA's Compliance Officer was false; or in the alternative;
  - ii. Contrary to the Fundamental Principle of Integrity in that such conduct demonstrates a failure to be straightforward and honest (2021); and
  - iii. Contrary to Global Practising Regulation 14(2) (2021)

### **Allegation 3**

- (a) By reason of his conduct Mr Khehar is:
  - i. Guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any or all of the matters set out at allegation 1 and/or 2 above;
  - ii. Liable to disciplinary action pursuant to byelaw 8(a)(iii) in respect of 1(c)(iii) and/or 2(b)(iii).

### **SCHEDULE A**

**Audit report for the year ended**

**Date audit report signed**

30 November 2016

12 April 2017

30 November 2017

30 March 2018

30 November 2018

29 July 2019

18. Mr Khehar is a Fellow of ACCA. He is the sole director of S S Khehar Accountancy Services Limited. He currently holds a general practising certificate issued by ACCA, having previously held an audit certificate issued by ACCA until 18 May 2021.
19. On 12 April 2017, Mr Khehar, on behalf of S S Khehar Accountancy Services, signed the audit report for Client A for the year ended 30 November 2016.
20. On 30 March 2018, Mr Khehar on behalf of S S Khehar Accountancy Services, signed the audit report for Client A for the year ended 30 November 2017.
21. On 29 July 2019, Mr Khehar on behalf of S S Khehar Accountancy Services, signed the audit report for Client A for the year ended 30 November 2018.
22. The Independent Auditor's Report for the year ended 30 November 2016 contained the following wording: *"We conducted our work in accordance with Bulletin 2008/4 issued by the Auditing Practices Board. In accordance with that Bulletin we have carried out the procedures we considered necessary to confirm, by reference to the full accounts, that the company is entitled to deliver abbreviated accounts and that the abbreviated accounts are properly prepared."*
23. On 9 May 2021, Mr Khehar advised ACCA that he was approached by another firm of accountants who requested that he conduct a 'hot review' of the accounts of Client A. He advised that he signed the accounts in error.
24. No audit working papers have been made available to ACCA to support the three audit reports signed by Mr Khehar for Client A.
25. ISA 230 states that the audit file should provide *"evidence that the audit was planned and performed in accordance with ISAs and applicable legal and*

*regulatory requirements.*” It is expected that an audit file would contain the following sections:

- i. Planning*
- ii. Programmes of work to be completed*
- iii. Audit tests*
- iv. Checklists*
- v. Completion/conclusion*

26. ISA 230 also states that: *“The retention period for audit engagements ordinarily is no shorter than five years from the date of the auditor’s report...”*
27. On 2 February 2021, ACCA carried out a monitoring visit to S S Khehar Accountancy Services Limited. This was a routine review, the purpose of which was to monitor the firm’s audit work, confirm its eligibility for registered auditor status and to monitor compliance with the other obligations under the Chartered Certified Accountants’ Global Practising Regulations 2003 (GPRs). As part of the standard monitoring visit procedure, ACCA’s Senior Compliance Officer requested a full list of all the audit clients of S S Khehar Accountancy Services Limited from Mr Khehar in advance of his visit in February 2021.
28. On 8 January 2021, Mr Khehar provided a list of his audit clients to the Senior Compliance Officer undertaking the monitoring visit. The list did not contain the name of Client A. When asked about this by the Senior Compliance Officer, Mr Khehar accepted, in an email dated 18 January 2021, that he had signed the audit report of Client A for the year ended 30 November 2018. He said, *“[Client A] was a travel company that another firm of accountants did the accounts, but are not registered to sign the accounts under ATOL. I reviewed their accounts file in 2018 as a one off before signing the accounts.”*
29. Mr Khehar was informed that ACCA would be inspecting the audit files of Client A and asked him to courier the files to ACCA’s office. Mr Khehar responded by saying that Client A was referred by another accountant who had prepared the accounts. He was asked to retrieve the file from the other accountant and send it to ACCA.
30. On 28 January 2021, the Senior Compliance Officer contacted Mr Khehar and enquired about the audit file for Client A. Mr Khehar responded by email the



following day saying *"I could not contact the accountant who had the [Client A] audit file. However through a third party I found that he had ceased trading as an accountant in December 2019 due to ill health, ... and died on 4 January 2021 ..."* He added, *"It has not been possible to contact his wife to see if I could retrieve the audit file."*

31. Checks were made with Companies House and it was discovered that Mr Khehar had also audited the financial statements of Client A for the years ended 30 November 2016 and 2017, contrary to what he had said in his email to the Senior Compliance Officer about it being a *"one off"*. Mr Khehar was asked about this and, in an email dated 29 January 2021 he said, *"Sorry I seem to have made a mistake on this client and forgot the audits for the other years."* He also said *"I mistakenly believed that they were not my direct clients and that I acted on behalf of another colleague. there was no advantage to me in failing to disclose this other audit."*
32. On 27 April 2021, an ACCA Investigating Officer sent an email to Mr Khehar enclosing a copy of a referral from Practice Monitoring concerning his conduct and that this was now being investigated. The email detailed the issues raised by the complaint, together with some comments and questions and details of ACCA's procedure for dealing with complaints, including the holding of hearings before the Disciplinary Committee.
33. In an email dated 9 May 2021, Mr Khehar responded saying, *"I was approached by another firm...who requested a hot review...I made a mistake in signing the accounts although [Client A] was not a direct client of mine. The accountant...then borrowed he working file on some pretext. I was not able to retrieve any of my files as he died on 4th Jan 2021 after a long illness. His wife...could not locate the file...I carried out a hot audit review based on the accounts produced ..."* (sic). He added, *"I accept that I made a mistake in getting involved with [the other accountancy firm] which lead to signing the accounts for [Client A]"* (sic). He concluded by saying, *"I am in the process of retiring soon. I currently have only one Audit client. I am prepared to resign as the auditor of this client. I do not wish to renew my Practising Certificate in the future. I will not be attending the hearing and wish to apologise for my failure."*

34. Mr Khehar was then asked to provide a copy of his hot review work on the file of Client A. In an email dated 12 May 2021, Mr Khehar said his hot review working papers were in the same file taken by the other firm of accountants.
35. On 19 May 2021, the Admissions and Licensing Committee of ACCA considered the matter and decided to withdraw Mr Khehar and his firm's auditing certificate.
36. On 22 March 2022, ACCA contacted Mr Khehar to notify him that his case had been considered by an Assessor and referred to a hearing before ACCA's Disciplinary Committee.
37. On 23 March 2022, Mr Khehar completed and signed a Disciplinary Case Management Form. In relation to the facts, Mr Khehar indicated that they were all admitted. He also admitted that the facts amount to misconduct.
38. On 12 January 2023, a Case Progression Officer wrote to Mr Khehar indicating that the case had been referred to the Disciplinary Committee and advising that any correspondence should henceforth be sent to them. They also asked Mr Khehar to confirm his availability to attend a hearing in February and March 2023. In an email of the same date, Mr Khehar responded saying, "*My understanding was that I have accepted the findings of the case against me and do not wish to contest. My Audit certificate has been cancelled or I have not renewed it. I do not wish to attend, As I am [...] years of age I will not be renewing my ACCA membership.*" (sic)
39. Mr Khehar did not participate in the hearing, nor did he provide any written submissions for the Committee to consider, beyond those communications already referred to above.

#### **DECISION ON FACTS/ALLEGATION AND REASONS**

40. The Committee considered with care all the evidence presented and the submissions made by Ms Terry. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

#### **Allegation 1 (a) - proved**

41. The Committee was satisfied that there was sufficient evidence to prove that Mr Khehar signed the audit reports relating to the accounts of Client A certifying that he had undertaken the audit work identified in the report in accordance with the International Standards on Auditing (UK and Ireland), when he had not undertaken that work sufficiently or at all. This conclusion was based on the material before the Committee and Mr Khehar's admissions in the Case Management Form.

**Allegation 1 (b) - proved**

42. The Committee was satisfied that there was sufficient evidence to prove that Mr Khehar failed to retain the audit files for Company A for the years set out in Schedule A for five years after the date the audit report was signed, as required by International Standard on Auditing 230 (then in force). This conclusion was based on the material before the Committee and Mr Khehar's admissions in the Case Management Form.

**Allegation 1 (c) (i) - proved**

43. The Committee then considered whether Mr Khehar's conduct in 1(a) was dishonest. The Committee considered what it was that Mr Khehar had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. For three consecutive years, Mr Khehar signed the audit reports of Client A, a Limited Company where thorough audit work would be necessary, in the full knowledge that he should not have done so because he had not carried out the work sufficiently or at all. In his responses to ACCA, he said the work had been done by another firm of accountants, who were not able to sign off the accounts as they were not a member of ATOL. He also said he reviewed the 2018 accounts as a 'one-off' before signing them. This was clearly not true since he had signed the previous two years accounts as well. The Committee did not consider his account that he had simply forgotten that he had signed the two previous years to be credible. The Committee noted that he only had one other audit client.
44. Signing audit accounts is a significant act by a qualified accountant since the audited reports are relied on by the users of the financial statement, including investors, Companies House and financial institutions. As a long-standing

member of ACCA, Mr Khehar would have been well aware of this basic and fundamental fact. Certifying that the necessary audit work had been done when providing the audit opinion, when in fact he was not in a position to truly know whether the necessary work had been done, since he had not done it, was both false and misleading to anyone reading the accounts. Mr Khehar had failed in his important public duty as a Chartered Certified Accountant and auditor by knowingly signing audit reports despite not having carried out an audit himself. Furthermore, he had not done this just once, but three times, demonstrating a pattern of behaviour.

45. The Committee was satisfied that such behaviour was dishonest. Mr Khehar knew he had not done the audit work, sufficiently or at all, prior to signing the three audit reports. By signing the reports, he was actively deceiving the reader of such reports into believing that he, Mr Khehar, had actually carried out the necessary work in order to be able to sign the audits. Whatever his true motive for doing so, the Committee was satisfied that the ordinary decent person would find that conduct dishonest and indeed, by the indication given by Mr Khehar in the Case Management form, it appeared he accepted his conduct was dishonest.
46. Having found Allegation 1(c)(i) proved, it was not necessary for the Committee to consider Allegation 1(c)(ii), which was alleged in the alternative.

**Allegation 1(c)(iii) - proved**

47. ACCA's Global Practising Regulations 13(1) of Annex 1 Appendix 1 (as applicable in 2017 to 2019), states:

*"In the conduct of audit work, holders of an audit qualification and firms holding an auditing certificate shall comply with all the applicable sections of the Association's Rulebook and in particular the ACCA Code of Ethics and Conduct, the International Standards on Auditing issued by the International Auditing and Assurance Standards Board and the technical, ethical and quality control standards issued by the UK competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016."*

48. The Committee was satisfied, and Mr Khehar admitted, that his actions in signing three audit reports on behalf of another firm of accountants and without

carrying out the audit work himself, was contrary to the above Global Practising Regulation. It therefore found Allegation 1(c)(iii) proved.

**Allegation 1(c)(iv) - proved**

49. ACCA's Code of Ethics and Conduct Fundamental Principle of Professional Competence and Due Care (as applicable in 2017 to 2019) requires members to "*... act diligently and in accordance with applicable technical and professional standards.*"
50. By signing three audit reports for three consecutive years on behalf of Client A, certifying that he had carried out the audit work necessary when he knew that not to be the case, Mr Khehar had clearly not acted diligently and in accordance with applicable technical and professional standards. By his admission, Mr Khehar appeared to accept this.
51. In all the circumstances, the Committee was satisfied, on the balance of probabilities, that ACCA had proved Allegation 1(c)(iv).

**Allegation 2(a) - proved**

52. The Committee was satisfied that there was sufficient evidence to prove that, in an email dated 8 January 2021, Mr Khehar failed to disclose Client A to the ACCA on his list of audit clients provided to the Senior Compliance Officer in advance of the monitoring visit on 2 February 2021. This conclusion was based on the material before the Committee and Mr Khehar's admissions in the Case Management Form.

**Allegation 2(b)(i) - proved**

53. The Committee then considered whether Mr Khehar's conduct in 2(a) was dishonest. The Committee considered what it was that Mr Khehar had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. When asked to disclose his list of audit clients in advance of the monitoring visit to be carried out on 2 February 2021, Mr Khehar failed to include Client A. When challenged about this he told the Senior Compliance Officer that he had signed the audit report of Client A for the year

ended 30 November 2018. He said, “[Client A] was a travel company that another firm of accountants did the accounts, but are not registered to sign the accounts under ATOL. I reviewed their accounts file in 2018 as a one off before signing the accounts.” (sic)

54. As already referred to above, Mr Khehar described this act as a ‘one-off’, when in fact it was the third consecutive year he had signed the audit accounts of Client A. The Committee has already determined that Mr Khehar’s conduct in signing those audit reports was dishonest, because he set out to deceive Companies House and anyone reading those accounts into believing he had carried out the necessary work in order to be able to certify an unqualified audit report. Prior to the visit by the Compliance Officer, Mr Khehar was asked to disclose his audit clients. The letter he was sent was clear that he needed to go back 24 months and Client A would clearly have fallen within that period. The Committee was not persuaded by his account that he had forgotten about them because they were not a client. He also said he misunderstood what he was required to do. This inconsistency cast doubt about his credibility. Also, he only had two audit clients so the likelihood of him having forgotten one of them seemed somewhat remote. The Committee was satisfied, on the balance of probabilities, that Mr Khehar failed to disclose the presence of Client A in order to hide the fact that he had been signing audits for a client in circumstances where he should not have been. The Committee was satisfied that the ordinary decent person would find such conduct to be dishonest and by the indication given by Mr Khehar in the Case Management Form, it appeared he accepted his conduct was dishonest.

55. The Committee therefore found 2(b)(i) proved.

56. Having found Allegation 2(b)(i) proved it was not necessary for the Committee to consider Allegation 2(b)(ii), which was alleged in the alternative.

**Allegation 2(b)(iii) - proved**

57. ACCA’s Global Practising Regulations 14 (as applicable in 2021), states:

*“(1) Persons subject to these regulations shall be subject to monitoring by the Association, in order to monitor compliance with these regulations and with the bye-laws...*

*“(2) For the purposes of Regulation 14(1), members must supply the Association with all the information necessary to enable the Association to complete its monitoring process efficiently.”*

58. The Committee was satisfied, and Mr Khehar admitted, that he had not provided ACCA with any documentation about Client A when asked for, was contrary to the above Global Practising Regulation. It therefore found Allegation 1(c)(iii) proved.

**Allegation 3(a)(i) - proved**

59. Having found proved the matters alleged in Allegations 1 and 2, the Committee then considered whether they amounted to misconduct. Mr Khehar acted dishonestly in signing three audit reports for Client A certifying that he had undertaken the audit work identified in the report in accordance with the International Standards on Auditing (UK and Ireland), when he had not undertaken that work sufficiently or at all. He had also acted dishonestly by attempting to hide from ACCA the fact that Client A was an audit client of his. By doing so, he had acted contrary to the Global Practising Regulations and also the fundamental Principle of Professional Competence and Due Care. This conduct demonstrated a disregard for ACCA’s regulations that are there to protect the public and maintain standards within the accountancy profession. It brings discredit upon Mr Khehar, the profession and ACCA. The Committee was in no doubt that this behaviour was sufficiently serious to amount to misconduct.
60. In light of its findings above the Committee found Allegation 3(i) proved in relation to Allegations 1 and 2 as alleged.

**Allegation 3(a)(ii) - proved**

61. The Committee was satisfied that Mr Khehar is liable to disciplinary action pursuant to byelaw 8(a)(iii) in respect of 1(c)(iii) and 2(b)(iii) as a direct

consequence of Mr Khehar's admissions and the Committee having found those specific allegations proved.

## **SANCTION AND REASONS**

62. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Terry. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr Khehar, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.
63. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
64. The Committee considered the following aggravating features: repeated dishonesty, as demonstrated by signing the audit reports for Client A for three consecutive audits; conduct undermining public confidence in ACCA and the profession; limited insight.
65. The Committee considered there to be the following mitigating factors: no previous disciplinary record with ACCA; unequivocal admissions; some insight; an apology.
66. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had disregarded the regulations and acted dishonestly when signing those audits and in attempting to conceal from ACCA the fact that Client A had been an audit client.
67. The Committee then considered whether to reprimand Mr Khehar. The Guidance indicates that a reprimand would be appropriate in cases where the conduct is of a minor nature, there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding, together with genuine insight into the conduct found proved. The Committee did not consider Mr Khehar's conduct to be of a minor nature and he had shown limited insight into his behaviour. The Committee noted that when addressing



factors relevant to seriousness in specific case types, ACCA's Guidance indicates that misleading ACCA is considered to be very serious. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.

68. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The Guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The Committee did not consider these criteria to be met. Although Mr Khehar had indicated that he was going to retire, there was nothing to stop him from changing his mind and continuing or returning to practice. Whilst he had made admissions, he had shown little insight into the impact of his behaviour on the public and the profession. The Guidance adds that this sanction may be appropriate where most of the following factors are present:

- The misconduct was not intentional and no longer continuing;
- Evidence that the conduct would not have caused direct or indirect harm;
- Insight into failings;
- Genuine expression of regret/apologies;
- Previous good record;
- No repetition of failure/conduct since the matters alleged;
- Rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- Relevant and appropriate references;
- Co-operation during the investigation stage.

69. The Committee considered that few of these factors applied in this case and that accordingly a severe reprimand would not adequately reflect the seriousness of Mr Khehar's behaviour. His misconduct was intentional, he has not demonstrated any significant insight into his failings; he has apologised, he does have a previous good record and he has co-operated with ACCA; however, his behaviour was repeated; there has been no evidence of

rehabilitative steps; no references; and the misconduct itself was particularly serious.

70. The Committee noted that the Association provides specific Guidance on the approach to be taken in cases of dishonesty. In Part E2 of the Guidance, it states that dishonesty is said to be regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere, because it undermines trust and confidence in the profession. The Guidance states that the courts have consistently supported the approach to exclude members from their professions where there has been a lack of probity and honesty and that only in exceptional circumstances should a finding of dishonesty result in a sanction other than exclusion from membership. The Guidance also states that the public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member to do the right thing in difficult circumstances. As the Guidance says, *“It is a cornerstone of the public value which an accountant brings.”*
71. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Khehar’s case that warranted anything other than exclusion from membership. The Committee was of the view that there were no exceptional circumstances that would allow it to consider a lesser sanction and concluded that the only appropriate and proportionate sanction was exclusion. As mentioned above, the signing of audit accounts is a significant act by a Chartered Certified Accountant since the audited reports are relied on by the users of the financial statement, including investors, Companies House and financial institutions. The combination of dishonestly signing audits for a limited company without having carried out the necessary work and then dishonestly trying to hide the presence of that audit client from ACCA, amounted to conduct that fell far below the standard expected of a member of ACCA. The Committee considered such behaviour to be fundamentally incompatible with being a member of ACCA and undermined the integrity of ACCA’s regulatory process. This deliberate, dishonest conduct was such a serious breach of byelaw 8 that no other sanction would adequately reflect the gravity of Mr Khehar’s offending behaviour.

72. The Committee also considered that a failure to exclude a member from the register who had behaved in this way would seriously undermine public confidence in the profession and in ACCA as its regulator. The public need to know it can rely on the integrity, ability and professionalism of those who are members of ACCA. In order to maintain public confidence and uphold proper standards in the profession it was necessary to send out a clear message that this sort of behaviour is unacceptable.
73. The Committee therefore ordered that Mr Khehar be excluded from membership.
74. The Committee did not consider any of the grounds in Regulation 6(3) of the Statutory Auditors and Third Country Auditors Regulations applied in this case and that accordingly publicity should take place in the usual way.

#### **COSTS AND REASONS**

75. ACCA applied for costs in the sum of £7,292.00. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable. However, the Committee noted that the hearing had taken less time than envisaged and that a reduction for the amount of time recorded for the case presenter and hearings officer would be appropriate. Mr Khehar did not provide any details of his means or provide any representations about the costs requested by ACCA. There was, therefore, no evidential basis upon which the Committee could make any reduction on that ground.
76. In light of its observations above, the Committee reduced the amount requested to reflect the actual costs more likely to have been incurred and made an order in the sum of £6,800.

#### **EFFECTIVE DATE OF ORDER**

77. In light of its decision to exclude Mr Khehar from ACCA and the seriousness of his misconduct, the Committee decided it was in the interests of the public to order that the sanction have immediate effect.

**Mrs Helen Carter-Shaw**  
**Chair**  
**17 February 2023**